

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

| | | |
|-------------------------------|---|------------------------------------|
| Steven Roy Earley, Jr., |) | |
| #294247 |) | |
| |) | Civil Action No.: 4:08-cv-3961-GRA |
| Petitioner, |) | Order |
| vs. |) | |
| |) | |
| Warden, Perry Correctional |) | |
| Institution; and John Ozmint, |) | |
| |) | |
| Respondents. |) | |
| _____ |) | |

This matter comes before the Court to review Magistrate Judge Rogers' Report and Recommendation, filed on November 5, 2009. For the reasons stated herein, this Court adopts the magistrate's Report and Recommendation in its entirety.

Petitioner's initial complaint was filed on December 10, 2008. On June 26, 2009, Respondent filed a Motion for Summary Judgement. On June 29, 2009, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1979), the magistrate advised Petitioner of the summary dismissal procedure and the possible consequences if he failed to respond adequately. Petitioner filed a Response in Opposition on July 20, 2009. The magistrate recommends granting Respondent's Motion for Summary Judgement.

Petitioner brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This

Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th. Cir. 1983). Petitioner has made no objections to the magistrate's Report and Recommendation.

Conclusion

After a thorough review of the record, magistrate's Report and Recommendation, and the relevant case law, this Court finds that the magistrate applied sound legal principles to the facts of this case. Therefore, this Court adopts the magistrate's Report and Recommendation in its entirety.

IT IS THEREFORE SO ORDERED THAT Respondents' Motion for Summary

Judgement is GRANTED.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "G. Ross Anderson, Jr.", written over a horizontal line.

G. Ross Anderson, Jr.
Senior United States District Judge

Anderson, South Carolina
December 8, 2009

NOTICE OF RIGHT TO APPEAL

Pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure, Petitioner has the right to appeal this Order within thirty (30) days from the date of its entry. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, **will waive the right to appeal.**